

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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RESPONSE OF THE STATE OF NORTH CAROLINA)
TO THE PROPOSED REVISION OF)
MAXIMUM COLLECTION AMOUNTS) CC Docket No. 96-45,
FOR SCHOOLS, LIBRARIES AND) DA 98-872
RURAL HEALTH CARE PROVIDERS)

INTRODUCTION

The State of North Carolina's Department of Public Instruction and the State Telecommunications Services Division of the Department of Commerce file this joint response to the Request for Comment released by the FCC's Common Carrier Bureau ("Commission") on May 13, 1998. Because the individual schools and libraries most impacted by the E-rate program are typically small and underfunded, this response is realistically the only opportunity for their voices to be heard on the 1998 collection decisions made by the Commission. The importance of full implementation for the initial year of this program cannot be overemphasized.

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I. IMPACT OF E-RATE PROGRAM REDUCTION ON NORTH CAROLINA

The schools, libraries and other affected agencies in the State of North Carolina have expended tremendous effort, especially in terms of human resources, to participate in the E-rate program. The state has fully endorsed the educational purposes of this program, and through State Information Processing Services (SIPS), Department of Public Instruction, (DPI) and the Governor's Office of Technology, has conducted numerous regional meetings across the state to inform the eligible entities about E-rate. As a result of this effort, at least 102 of the state's 117 school districts and 33 Charter Schools have filed application to participate in the program. Approximately 1,308,294 of the state's students,¹ in both public and private schools, will be positively affected by their schools' participation in the program. There are 2,709,000 registered library users in North Carolina. Very rarely is there so much benefit that can be realized by so many, as there exists with this program.

The applicants for these programs have been operating under the belief that the FCC would honor the caps it set in its May 8, 1997 Order to fund eligible school and library applicants up to a cap of \$2.25 billion for 1998.

The state has also invested substantial time and resources to provide the complimentary computing and training resources needed for the schools and libraries to properly administer their on-going participation in the discount program. Additionally, the participating entities have planned budgets and signed the necessary service contracts based on the funding arrangements set out by the program rules. Anything less than full funding of the initial rollout will place the participating entities in the predicament of having entered unfunded contracts, resulting in subsequent contract terminations.

A groundswell of goodwill has been built for the administration because of the program. Unfortunately, limitations due to less funding could potentially undermine the relationship between the state and the administration. Changing the rules in mid-stream causes mistrust by all the entities who had applied under the rules developed for the program, in addition to the economic hardships of having depended upon funding which is suddenly withdrawn.

Reduction of the program would most hurt the entities for which the program was developed, i.e., those schools and libraries serving economically deprived areas that were slated to receive the largest percentage of discount. For all these reasons, the initial phase of the program should be fully funded.

¹ The impact on the state is even more dramatic upon realizing that the number of students and registered library users are actually a large percentage of the total population of the state, projected for 1998 at 7,543,000.

II. TIMING OF E-RATE IMPLEMENTATION WITH ACCESS CHARGE REDUCTIONS BY THE LECs

The Commission proposes that the schools, libraries, and rural health care universal service support mechanisms ("the E-rate program") be implemented gradually, to reflect the timing of access charge reductions.² As part of the deregulation plan for the telecommunications industry, the local exchange carriers (LECs) will file access tariffs on June 16, 1998 which will reduce their access charges to long distance carriers by an estimated \$700,000,000 over the next four quarters.³ The Commission proposes that the reduction of access charges determine the collection rate for the second half of the initial year of the E-rate program in order not to increase the total access and universal service payments by long distance carriers, and to "prevent rate churn for subscribers."⁴

The two concepts, reduction in local access charges and setting the collection rate for the E-rate program, are not required by law to be interdependent. The goal for the reduction in local access charges is to create a more even playing field for entry of competitors in the local telecommunications markets. The Telecommunications Act of 1996 enabled the E-rate program. The Commission Order of May 8, 1997 established the federal universal service support mechanisms for schools, libraries, and rural health care providers with an annual funding cap of \$2.25 billion for schools and libraries and \$400 million for health care providers.⁵ Neither the enabling legislation nor its initial implementation requires an E-rate collection formula based on the amount of reductions to local access charges paid by the long distance carriers. Such connection should not now be required. Because the deregulation issues do not unfold in a linear or predictable fashion, the funding for an important program like E-rate should not be subject to such unpredictability.

III. ADJUSTMENT TO THE MAXIMUM COLLECTION AMOUNTS AND SUBSEQUENT REIMBURSEMENTS

The initial annual funding cap of the E-rate program for schools and libraries was set at \$2.25 billion. The collection of one-half that amount for the first six months was not necessary because of the time lag for obtaining and processing applications. The *Third Reconsideration Order* revised the

² See, Request for Comment, Proposed Revision of 1998 Collection Amounts for Schools and Libraries and Rural Health Care Universal Service Support Mechanisms, CC Docket No. 96-45, Public Notice (rel. May 13, 1998).

³ *Id.*

⁴ *Id.*

⁵ See, Universal Service Order at Federal-State Joint Board on Universal Service, CC Docket 96-45, Report and Order, 12 FCC Rcd 8776, 9002-161, paras. 424-749 (1997).

collection amounts for schools and libraries to \$625 million for the first six months of 1998.⁶ As of May 1, 1998, the SLC estimates that \$2.02 billion in discounts have been requested by applicants. Now it becomes obvious that the program should be funded up to the cap in order to meet the needs of the eligible schools and libraries.

The Commission seeks not to fully fund the E-rate program, however, and requests comments as to how such adjustments could be made without impacting the level of support available to the most economically disadvantaged schools and libraries.

The suggestion has been made to delay funding of internal connections and Internet services. The idea of fully funding telecom services while delaying funding for infrastructure and connectivity definitely puts the cart before the proverbial horse. The necessity of a complete program inclusive of wiring, connections and services should be inherently obvious to allow services to culminate in the delivery of significant educational benefit.

Experience teaches that the initial roll out of technology projects requires one-time costs for infrastructure like hardwiring and connectivity. While these needs are a significant total of the initial applications to the E-rate program,⁷ subsequent years should see a significant decrease in the proportion of reimbursement for infrastructure.

Initially, the funds should be collected at the maximum since the initial need is the greatest for establishing a complete infrastructure, without which all other services are undeliverable. Significantly, in North Carolina local and county governments are responsible for funding the hardwiring and other infrastructure requirements for all public school programs. The most economically disadvantaged counties are in the worst position to fund the hardwiring and connectivity needs on their own. Inevitably, many schools would not be able to fund these infrastructure needs, and therefore would have no need of the supporting telecom services. These schools would have a severely limited opportunity to participate in the E-rate program's telecom discounts. Removal of the infrastructure piece of E-rate funding would not allow adequate support for the very entities the program was designed to assist.

A good infrastructure enhances educational capabilities and streamlines administrative costs. Participation in a centralized network provides better service, including greater speed and access, offering the schools and libraries an opportunity to develop more than just network connections, but quality

⁶ See, *Third Reconsideration Order*, 12 FCC Rcd at 22803-04, para. 4.

⁷ See, Federal-State Joint Board Report to Congress, rel. April 10, 1998, Attachment D. Applications for telecom services discounts total \$655,688,020; Internet services total \$88,208,299, and internal connections total \$1,275,399,870.

North Carolina Department of Public Instruction and
North Carolina Department of Commerce,
State Information Processing Services

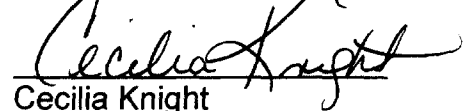
programs. Should the schools be underfunded for connectivity and infrastructure, some may be forced to accept a solution to their needs that would not provide connectivity to the state's network and infrastructure. The schools would be left with isolated pockets of technology, impeding their information exchange capabilities with other schools, the administration, and educational resources. Further, the purchasing power rendered by economies of scale will be lost if schools implement individual networking solutions. The full benefit of new networking technology is likely to be unattainable if connectivity funding is reduced.

Modifying the collection and disbursement plan of the E-rate program in mid-stream will add an administrative burden on the SLC and all program applicants as they seek to satisfy the modification requirements.

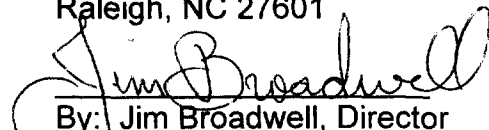
CONCLUSION

The schools and libraries have planned their technology programs based on the belief that the E-rate program would be funded up to the cap. Funding reductions have a disparate impact on the poorest communities, those for which the program was designed. Any negative impact on wiring needs would render the program less effective in its return on the dollar, in terms of delivery of the educational potential.

**Respectfully submitted by,
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